

Deficiency Progress Report

To complete the evaluation process, Cal/EPA requires the CUPAs to submit Deficiency Progress Reports that explain the CUPA's progress towards correcting the identified deficiencies. Deficiency Progress Reports are due every 90 days after the evaluation date until all deficiencies have been corrected.

CUPA: Santa Barbara County Fire Department
Evaluation Date: December 19 and 20, 2007
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Date Update 1 submitted: May 20, 2008
Deficiencies corrected with update 1: 12, 15, and 18

Deficiency 1: The CUPA has not established the following administrative procedures: public participation procedures, records maintenance procedures, procedures for forwarding the HMRRP information in accordance with HSC sections 25503(d) and 25509.2 (a) (3), and financial management procedures.

Preliminary Corrective Action(s): By December 20, 2008, the CUPA will develop and submit copies of the administrative procedures required under Title 27 section 15180 (e).

CUPA Corrective Action, (Update 1):

Cal/EPA Response: The CUPA has until December 20, 2008, to develop and submit copies of the administrative procedures.

Deficiency 2: The CUPA is not implementing their inspection and enforcement program in a manner consistent with the laws, regulations, and their draft Inspection and Enforcement Plan. (see Summary of Findings for details)

Preliminary Corrective Action(s): By March 20, 2008, the CUPA will follow up with Santa Maria Car Wash and start initiating the appropriate enforcement action for this facility. The CUPA will continue to provide Cal/EPA updates, via deficiency progress reports, on the case until a final settlement has been reached. The CUPA shall provide a summary of the enforcement status of all facilities identified as having Class I hazardous waste violations in FY 06/07. This summary shall be provided by March 20, 2008. Additionally the CUPA shall ensure that the proper enforcement action was taken in each instance – see highlighted notes below in response. By December 20, 2008, the CUPA will finalize their Inspection and Enforcement Plan. The CUPA will initiate the

appropriate enforcement action for non-minor violations identified during inspections within the 135 days from the date of inspection.

CUPA Corrective Action, (Update 1): A Hazardous Materials Specialist (HMS) was conducting the 2007 annual inspection of this facility as SWQCB staff was reviewing the facility file. During that inspection, documentation was found for the replacement of both LLDs on 7/31/2006, and sensors having been remounted on 7/12/ 2006 prior to the service technician leaving the site. The HMS also stated he remembered being aware of the replacement at the time. All HMSs in the CUPA programs were instructed to ensure they document all corrections of violations as per CCR 27 requirements. Therefore, no enforcement action against the facility is deemed to be appropriate.

SWRCB Response, (Update 1): The CUPA has stated that enforcement was not necessary due to the violations being corrected at the time of the inspection. Also the CUPA states they instructed their inspectors to document violations per CCR 27. It is required for the CUPA inspectors to document all violations, including minor ones fixed during the inspection, in their inspections reports. The inspectors should be instructed to document all violations on their Inspection Checklists, then they can note that the violation was corrected during the inspection and if there are no other violations the facility is in compliance. Also inspectors should be told the facility is not in SOC compliance even though the violation has been corrected during the inspection for Report 6 numbers.

The SWRCB will consider this deficiency corrected when the CUPA provides further guidance to their inspectors on documenting violations in the inspection reports and SOC reporting.

DTSC Response, (Update 1): This deficiency remains outstanding. The CUPA had identified five (5) facilities with class I violations in annual summary report for the FY 06/07. Please provide an update on the specific steps you are taking to put in place a formal enforcement process and how you plan to apply this process to the five (5) facilities with class I violations. In addition, the CUPA shall ensure that the proper enforcement action was taken in each instance. Cal/EPA and DTSC will continue to track the progress being made to correct this deficiency via the deficiency progress reports.

Deficiency 3: The CUPA is not properly documenting the training and expertise of their staff.

Preliminary Corrective Action(s): By June 20, 2008, the CUPA will submit Cal/EPA the proper training documentation.

CUPA Corrective Action, (Update 1):

Cal/EPA Response: The CUPA has until June 20, 2008, to develop proper training documentation. In the next update due August 18, 2008, submit Cal/EPA copies of the proper training documentation.

Deficiency 4: In four of five files reviewed from both CUPA offices (Santa Barbara and Buellton), UST plot plans were not found.

Preliminary Corrective Action(s): By December 21, 2008, the CUPA will ensure that all facilities have UST plot plans that contain all the required elements.

CUPA Corrective Action, (Update 1):

SWRCB Response: The CUPA has until December 21, 2008 to ensure that all facilities have UST plot plans that contain all the required elements.

Deficiency 5: The CUPA is not sending information pertaining to underground storage tank program using Report 6 on a quarterly basis.

Preliminary Corrective Action(s): By December 28, 2007, the CUPA will submit Report 6 for the July through September 2007 quarter and continue to submit quarterly Report 6s when due.

CUPA Corrective Action, (Update 1): The noted Report 6 was submitted 1/3/2008.

SWRCB Response: The CUPA has submitted the last two quarterly reports due and the next report due is the semi-annual January - June 2008 Report 6 on August 30, 2008. As long as the CUPA submits this next report by the due date, this deficiency will be considered corrected.

Deficiency 6: The CUPA has not met the mandated inspection frequency for UST facility compliance inspections during the last year.

Preliminary Corrective Action(s): The CUPA will conduct compliance inspections for all UST facilities each year and will report their progress towards meeting the required inspection frequency in the deficiency progress reports.

CUPA Corrective Action, (Update 1): 56 UST inspections were done in the last quarter. Since the total number of facilities that need to be inspected on an annual basis is 188, we are on track to complete all UST inspections this year.

SWRCB Response: The CUPA is on target to meet its objective of 100% inspection of all UST facilities. This deficiency will be considered corrected if the CUPA meets 188 UST inspections at the end of 2008. Please provide quarterly updates with the CUPA Corrective Actions and keep up the good work.

Deficiency 7: The CUPA is not inspecting or ensuring the Cooperating Agencies (CA) are inspecting all businesses, subject to the business plan for compliance every 3 years.

Preliminary Corrective Action(s): By March 20, 2008, the CUPA must submit an action plan outlining how CUPA will maintain their inspection frequency and continue to report their progress towards meeting the required inspection frequencies in the deficiency progress reports. Additionally, the CUPA will require the CA to provide the CUPA an action plan outlining how the CA will maintain their inspection frequency and continue to report their progress towards meeting the required inspection frequencies to the CUPA.

CUPA Corrective Action, (Update 1): We have been able to fill the three vacant HMS positions during 2007. Currently, the HMS hired 9/24/2007 is in the final stages of training. We had expected to be able to meet the inspection requirements of all CUPA programs as of beginning of 2008. However, since the transfer of the APSA to the CUPA, it is possible this will not be the case after all.
See attached "Action Plan" for CA inspection frequency compliance.

OES Response: The actions plans for both the CUPA as well as the CA in regards to maintaining inspection frequencies appear to be in-line with correcting the deficiency. The CUPA will report further progress in their next quarterly report.

Deficiency 8: The CUPA is not ensuring that the businesses, subject to the hazardous materials business plan, annually submit their hazardous materials *Annual Business Plan Certification* (which includes annual inventory and business plan review).

Preliminary Corrective Action(s): By March 20, 2008, the CUPA must submit an action plan outlining how the CUPA will maintain current certifications among the business plans. Additionally, the CUPA will report their progress in implementing their action plan in the deficiency progress reports

CUPA Corrective Action, (Update 1): See attached action plan.

OES Response: The CUPA's action plan to ensure that all businesses are submitting Annual Business Plan Certifications appear to be in-line with

correcting the deficiency. The CUPA will report further progress in their next quarterly report.

Deficiency 9: The CUPA is not completely implementing the Business Plan program. The CUPA has approximately 40 facilities that were previously exempted from the business plan program that are no longer exempt.

Preliminary Corrective Action(s): By March 20, 2008 the CUPA must submit an action plan outlining how the CUPA will properly regulate these businesses under the Business Plan in accordance to HSC section 25505 (a). Additionally, the CUPA will report their progress in implementing their action plan in the deficiency progress reports.

CUPA Corrective Action, (Update 1): All "Special Districts" are being notified that they will be required to comply with the BP law as it changed in 2003 and fees will be collected.

OES Response: The notifications appear to be working towards correcting the deficiency of annual submittals. The CUPA will report further progress in their next quarterly report.

Deficiency 10: As identified in the 2005 CUPA evaluation, CUPA has not reviewed or updated their Area Plan within the last 36 months.

Preliminary Corrective Action(s): The CUPA has received an HMEP Grant to update their Area Plan. By December 20, 2008 the CUPA shall have an approved updated Area Plan implemented.

CUPA Corrective Action, (Update 1):

OES Response: The CUPA has until December 20, 2008 to correct this deficiency. The CUPA will report any progress in their next quarterly report.

Deficiency 11: The CUPA does not have a CalARP dispute resolution procedure.

Preliminary Corrective Action(s): By June 30, 2008, the CUPA must establish a dispute resolution procedure and provide a copy to Cal/EPA with the deficiency progress report that satisfies all elements of CCR, Title 19 section 2780.1.

CUPA Corrective Action, (Update 1):

OES Response: The CUPA has until June 30, 2008 to correct this deficiency. The CUPA will report any progress in their next quarterly report.

Deficiency 12: The CUPA is not meeting their inspection frequency for the CalARP regulated facilities.

Preliminary Corrective Action(s): By March 20, 2008 the CUPA must submit an action plan outlining how the CUPA plans on meeting the required inspection frequency for CalARP regulated facilities. Additionally, the CUPA will report their progress in implementing their action plan in the deficiency progress reports.

CUPA Corrective Action, (Update 1): Since September of 2007, all specialist positions have been filled and our ability to perform the necessary inspections in all programs has improved greatly. Of the 19 CalARP facilities in our jurisdiction, 10 were inspected during the 3rd quarter. Therefore, we are above and beyond the necessary inspections to meet our required inspection frequency at this time.
(See attached "Performance Measures")

OES Response: The CUPA has satisfactorily addressed and corrected their deficiency regarding inspection frequencies of CalARP facilities.

Deficiency 13: The CUPA is not meeting its inspection frequency identified in the draft Inspection and Enforcement Plan for businesses subject to the hazardous waste program. Additionally, the CUPA is not meeting the required tiered permitting inspection frequency

Preliminary Corrective Action(s): By March 20, 2008 the CUPA must submit an action plan outlining how the CUPA plans on meeting the required inspection frequency for all hazardous waste regulated facilities. Additionally, the CUPA will report their progress in implementing their action plan in the deficiency progress reports.

CUPA Corrective Action, (Update 1): Since September of 2007, all specialist positions have been filled and our ability to perform the necessary inspections in all programs has improved greatly. As of the end of the 3rd quarter of this fiscal year, we have accomplished 90% of our annual inspection quota. This should continue so long as we have adequate staff.

DTSC Response: It is encouraging that the CUPA has filled specialist positions to perform HWG inspections. DTSC will continue to track the progress being made to correct this deficiency via the deficiency progress reports.

Deficiency 14: The CUPA is not ensuring that businesses submit their annual CA/PBR update or their CA/PBR authorization treatment notifications.

Preliminary Corrective Action(s): The CUPA shall have a procedure for the receipt of tiered permitting reports. By March 20, 2008, the CUPA will start

taking the appropriate action to obtain the required information from Innovative Micro Technology and the other PBR/CA facilities.

CUPA Corrective Action, (Update 1): The four PBR/CA facilities in this county are being inspected and notified of their responsibility to notify the CUPA annually regarding CA/PBR updates and their CA/PBR authorization treatment notifications. Failures to comply will result in enforcement actions.

DTSC Response: DTSC accepts the progress CUPA is making towards correcting this deficiency. DTSC still needs to know if CUPA received the required information from the Innovative Micro Technology and the other PBR/CA facilities. DTSC will continue to track the progress being made to correct this deficiency via the deficiency progress reports.

Deficiency 15: The CUPA is not conducting inspections in a manner consistent with state statute or regulation for businesses subject to tiered permitting program.

Preliminary Corrective Action(s): By March 20, 2008, the CUPA shall provide LQG and tiered training to their inspectors in addition to the training the CUPA staff have received during the annual CUPA conference.

CUPA Corrective Action, (Update 1): Staff training on these issues was conducted on April 29th and May 13th. Performance in these areas should be greatly improved by the next self-audit.

Cal/EPA and DTSC Response: The corrective actions taken by the CUPA sufficiently correct this deficiency. No further updates are required for this deficiency.

Deficiency 16: The CUPA is not citing violations consistent with definitions of minor, Class II or Class I as provided in state statute law and regulation.

Preliminary Corrective Action(s): The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA “**Violation Classification Guidance Document for Unified Program Agencies**” which can be found on the Cal/EPA website under Unified Programs Inspection and Enforcement Resources. By March 20, 2008, the CUPA will begin taking formal enforcement against the facilities noted and shall submit documentation with the deficiency progress reports.

CUPA Corrective Action, (Update 1): Staff training on these issues was conducted on April 29th and May 13th. Performance in these areas should be greatly improved by the next self-audit

DTSC Response: DTSC accepts the progress CUPA is making towards correcting this deficiency. DTSC needs information on when you will begin taking formal enforcement against the facilities noted and shall submit documentation with the deficiency progress reports. DTSC will continue to track the progress being made to correct this deficiency via the deficiency progress reports

Deficiency 17: The CUPA is not ensuring that all facilities that have received a notice to comply citing minor violations have returned to compliance within 30 days of notification.

Preliminary Corrective Action(s): The CUPA shall ensure that facilities have RTC either by a RTC certification or re-inspections. By March 20, 2008, CUPA shall ensure that the facilities with minor violations have returned to compliance and shall submit documentation with the deficiency progress reports.

CUPA Corrective Action, (Update 1): This issue has been added to the CUPA program unit "Performance Measures" and is being reviewed by the supervisor of the unit on a monthly basis. This should improve the RTC by the next self-audit.

DTSC Response: DTSC accepts the progress CUPA is making towards correcting this deficiency. DTSC will continue to track the progress being made to correct this deficiency via the deficiency progress reports

Deficiency 18: The CUPA staff does not fully understand the silver-only requirements.

Preliminary Corrective Action(s): By March 20, 2008, CUPA shall provide silver only training to their staff.

CUPA Corrective Action, (Update 1): Staff training on these issues was conducted on April 29th and May 13th. Performance in these areas should be greatly improved by the next self-audit

DTSC Response: The corrective actions taken by the CUPA sufficiently correct this deficiency. No further updates are required for this deficiency.

Deficiency 19: The CUPA has not completed an annual self audit in compliance with Title 19, Section 2780.5 (b)(1)(2)(3)(4)(5)(7)(8) for the CalARP Program in that lists of CalARP facilities were not provided in the self audit.

Preliminary Corrective Action(s): The CUPA's FY 07/08 annual self audit shall include lists of CalARP facilities in compliance with Title 19 Section 2780.5 (b)(1)(2)(3)(4)(5)(7)(8). By September 30, 2008, the CUPA will submit a copy of the CUPA's FY 07/08 self audit to Cal/EPA.

CUPA Corrective Action, (Update 1):

OES Response: The CUPA has until September 30, 2008 to correct this deficiency. The CUPA will report any progress in their next quarterly report.